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QUESTION OF RESPONSIBILITY FOR ATTACKS ON UNITED NATIONS AND ASSOCIATED PERSONNEL AND MEASURES TO ENSURE THAT THOSE RESPONSIBLE FOR SUCH ATTACKS ARE BROUGHT TO JUSTICE

Report of the Sixth Committee

Rapporteur: Mrs. Silvia A. FERNANDEZ de GURMENDI (Argentina)

I. INTRODUCTION

1. The item entitled "Question of responsibility for attacks on United Nations and associated personnel and measures to ensure that those responsible for such attacks are brought to justice" was included in the agenda of the forty-ninth session of the General Assembly pursuant to paragraph 6 of General Assembly resolution 48/37 of 9 December 1993.

2. At its 3rd plenary meeting, on 23 September 1994, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. In connection with the item, the Sixth Committee had before it the following documents: (a) Report of the Ad Hoc Committee on the Elaboration of an International Convention Dealing with the Safety and Security of United Nations and Associated Personnel, established under General Assembly resolution 48/37; 1/ (b) Letter dated 23 August 1994 from the Chargé d'affaires a.i. of the Permanent Mission of Ukraine to the United Nations addressed to the Secretary-General (A/49/335).

4. Pursuant to paragraph 5 of General Assembly resolution 48/37 and in accordance with the recommendation contained in paragraph 29 of the report of

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1/ Official Records of the General Assembly, Forty-ninth Session, Supplement No. 22 (A/49/22).

the above-mentioned Ad Hoc Committee, the Sixth Committee, at its 3rd meeting, on 26 September 1994, established a Working Group under the item and elected Mr. Philippe Kirsch (Canada) as its Chairman. The Working Group held 11 meetings, from 3 to 14 October 1994.

5. At the 29th meeting of the Sixth Committee, on 8 November, the Chairman of the Working Group introduced the report of the Working Group (A/C.6/49/L.4). The report contained in an annex the text of a draft convention which the Working Group had decided to submit to the Sixth Committee for consideration with a view to its adoption.

6. The Sixth Committee considered the item at its 29th to 32nd and 34th and 35th meetings, held on 7, 9 to 11 and 15 and 16 November 1994. The summary records of those meetings contain the views of the representatives who spoke during the Committee's consideration of the item (A/C.6/49/SR.29-32 and 34-35).

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/49/L.9

7. At the 34th meeting, on 15 November, the representative of New Zealand, speaking also on behalf of Ukraine, introduced a draft resolution entitled "Convention on the Safety of United Nations and Associated Personnel" (A/C.6/49/L.9), sponsored by Argentina, Australia, Austria, Belgium, Brazil, Canada, Denmark, Fiji, Finland, France, Greece, Iceland, Ireland, Kenya, Liechtenstein, Malaysia, the Netherlands, New Zealand, Nigeria, Norway, Poland, the Republic of Moldova, Romania, the Russian Federation, Singapore, Slovakia, Sweden, Trinidad and Tobago and Ukraine, later joined by Bulgaria, El Salvador, Germany, Guatemala, Italy, Jordan, Kyrgyzstan, Namibia, the Philippines, Portugal, the Republic of Korea, Samoa and the United States of America.

8. At the 35th meeting, on 16 November, the Sixth Committee adopted draft resolution A/C.6/49/L.9 without a vote (see para. 10).

9. The representatives of Japan, India, Mexico, Venezuela, Cuba, the Islamic Republic of Iran, the United Kingdom of Great Britain and Northern Ireland and Mali made statements in explanation of position.

III. RECOMMENDATION OF THE SIXTH COMMITTEE

10. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Convention on the Safety of United Nations and Associated Personnel

The General Assembly,

Considering that the codification and progressive development of international law contributes to the implementation of the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations,

Gravely concerned at the increasing number of attacks on United Nations and associated personnel that have caused death or serious injury,

Bearing in mind that United Nations operations may be conducted in situations that entail risk to the safety of United Nations and associated personnel,

Recognizing the need to strengthen and to keep under review arrangements for the protection of United Nations and associated personnel,

Recalling its resolution 48/37 of 9 December 1993 by which it established the Ad Hoc Committee on the Elaboration of an International Convention Dealing with the Safety and Security of United Nations and Associated Personnel, with particular reference to responsibility for attacks on such personnel,

Taking into account the report of the Ad Hoc Committee, 2/ in particular the revised negotiating text resulting from the work of the Ad Hoc Committee,

Recalling its decision, in accordance with the recommendation of the Ad Hoc Committee, to re-establish a working group within the framework of the Sixth Committee at the current session of the General Assembly to continue consideration of the revised negotiating text and of proposals relating thereto,

Having considered the text of the draft convention prepared by the Working Group 3/ and submitted to the Sixth Committee for consideration with a view to its adoption,

1. Adopts and opens for signature and ratification, acceptance or approval, or for accession, the Convention on the Safety of United Nations and Associated Personnel, the text of which is annexed to the present resolution;

2. Urges States to take all appropriate measures to ensure the safety and security of United Nations and associated personnel within their territory;

3. Recommends that the safety and security of United Nations and associated personnel be kept under continuing review by all relevant bodies of the Organization;

4. Underlines the importance it attaches to the speedy conclusion of a comprehensive review of arrangements for compensation for death, disability, injury or illness attributable to peace-keeping service, with a view to developing equitable and appropriate arrangements and to ensuring expeditious reimbursement.

2/ Official Records of the General Assembly, Forty-ninth Session, Supplement No. 22 (A/49/22).

3/ A/C.6/49/L.4, annex.

ANNEX

Convention on the Safety of United Nations and Associated Personnel

The States Parties to this Convention,

Deeply concerned over the growing number of deaths and injuries resulting from deliberate attacks against United Nations and associated personnel,

Bearing in mind that attacks against, or other mistreatment of, personnel who act on behalf of the United Nations are unjustifiable and unacceptable, by whomsoever committed,

Recognizing that United Nations operations are conducted in the common interest of the international community and in accordance with the principles and purposes of the Charter of the United Nations,

Acknowledging the important contribution that United Nations and associated personnel make in respect of United Nations efforts in the fields of preventive diplomacy, peacemaking, peace-keeping, peace-building and humanitarian and other operations,

Conscious of the existing arrangements for ensuring the safety of United Nations and associated personnel, including the steps taken by the principal organs of the United Nations, in this regard,

Recognizing none the less that existing measures of protection for United Nations and associated personnel are inadequate,

Acknowledging that the effectiveness and safety of United Nations operations are enhanced where such operations are conducted with the consent and cooperation of the host State,

Appealing to all States in which United Nations and associated personnel are deployed and to all others on whom such personnel may rely, to provide comprehensive support aimed at facilitating the conduct and fulfilling the mandate of United Nations operations,

Convinced that there is an urgent need to adopt appropriate and effective measures for the prevention of attacks committed against United Nations and associated personnel and for the punishment of those who have committed such attacks,

Have agreed as follows:

Article 1

Definitions

For the purposes of this Convention:

(a) "United Nations personnel" means:

(i) Persons engaged or deployed by the Secretary-General of the United Nations as members of the military, police or civilian components of a United Nations operation;

(ii) Other officials and experts on mission of the United Nations or its specialized agencies or the International Atomic Energy Agency who are present in an official capacity in the area where a United Nations operation is being conducted;

(b) "Associated personnel" means:

(i) Persons assigned by a Government or an intergovernmental organization with the agreement of the competent organ of the United Nations;

(ii) Persons engaged by the Secretary-General of the United Nations or by a specialized agency or by the International Atomic Energy Agency;

(iii) Persons deployed by a humanitarian non-governmental organization or agency under an agreement with the Secretary-General of the United Nations or with a specialized agency or with the International Atomic Energy Agency,

to carry out activities in support of the fulfilment of the mandate of a United Nations operation;

(c) "United Nations operation" means an operation established by the competent organ of the United Nations in accordance with the Charter of the United Nations and conducted under United Nations authority and control:

(i) Where the operation is for the purpose of maintaining or restoring international peace and security; or

(ii) Where the Security Council or the General Assembly has declared, for the purposes of this Convention, that there exists an exceptional risk to the safety of the personnel participating in the operation;

(d) "Host State" means a State in whose territory a United Nations operation is conducted;

(e) "Transit State" means a State, other than the host State, in whose territory United Nations and associated personnel or their equipment are in transit or temporarily present in connection with a United Nations operation.

Article 2

Scope of application

1. This Convention applies in respect of United Nations and associated personnel and United Nations operations, as defined in article 1.

2. This Convention shall not apply to a United Nations operation authorized by the Security Council as an enforcement action under Chapter VII of the Charter of the United Nations in which any of the personnel are engaged as combatants against organized armed forces and to which the law of international armed conflict applies.

Article 3

Identification

1. The military and police components of a United Nations operation and their vehicles, vessels and aircraft shall bear distinctive identification. Other personnel, vehicles, vessels and aircraft involved in the United Nations operation shall be appropriately identified unless otherwise decided by the Secretary-General of the United Nations.

2. All United Nations and associated personnel shall carry appropriate identification documents.

Article 4

Agreements on the status of the operation

The host State and the United Nations shall conclude as soon as possible an agreement on the status of the United Nations operation and all personnel engaged in the operation including, inter alia, provisions on privileges and immunities for military and police components of the operation.

Article 5

Transit

A transit State shall facilitate the unimpeded transit of United Nations and associated personnel and their equipment to and from the host State.

Article 6

Respect for laws and regulations

1. Without prejudice to such privileges and immunities as they may enjoy or to the requirements of their duties, United Nations and associated personnel shall:

(a) Respect the laws and regulations of the host State and the transit State; and

(b) Refrain from any action or activity incompatible with the impartial and international nature of their duties.

2. The Secretary-General of the United Nations shall take all appropriate measures to ensure the observance of these obligations.

Article 7

Duty to ensure the safety and security of United Nations and associated personnel

1. United Nations and associated personnel, their equipment and premises shall not be made the object of attack or of any action that prevents them from discharging their mandate.

2. States Parties shall take all appropriate measures to ensure the safety and security of United Nations and associated personnel. In particular, States Parties shall take all appropriate steps to protect United Nations and associated personnel who are deployed in their territory from the crimes set out in article 9.

3. States Parties shall cooperate with the United Nations and other States Parties, as appropriate, in the implementation of this Convention, particularly in any case where the host State is unable itself to take the required measures.

Article 8

Duty to release or return United Nations and associated personnel captured or detained

Except as otherwise provided in an applicable status-of-forces agreement, if United Nations or associated personnel are captured or detained in the course of the performance of their duties and their identification has been established, they shall not be subjected to interrogation and they shall be promptly released and returned to United Nations or other appropriate authorities. Pending their release such personnel shall be treated in accordance with universally recognized standards of human rights and the principles and spirit of the Geneva Conventions of 1949.

Article 9

Crimes against United Nations and associated personnel

1. The intentional commission of:

(a) A murder, kidnapping or other attack upon the person or liberty of any United Nations or associated personnel;

(b) A violent attack upon the official premises, the private accommodation or the means of transportation of any United Nations or associated personnel likely to endanger his or her person or liberty;

(c) A threat to commit any such attack with the objective of compelling a physical or juridical person to do or to refrain from doing any act;

(d) An attempt to commit any such attack; and

(e) An act constituting participation as an accomplice in any such attack, or in an attempt to commit such attack, or in organizing or ordering others to commit such attack,

shall be made by each State Party a crime under its national law.

2. Each State Party shall make the crimes set out in paragraph 1 punishable by appropriate penalties which shall take into account their grave nature.

Article 10

Establishment of jurisdiction

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the crimes set out in article 9 in the following cases:

(a) When the crime is committed in the territory of that State or on board a ship or aircraft registered in that State;

(b) When the alleged offender is a national of that State.

2. A State Party may also establish its jurisdiction over any such crime when it is committed:

(a) By a stateless person whose habitual residence is in that State; or

(b) With respect to a national of that State; or

(c) In an attempt to compel that State to do or to abstain from doing any act.

3. Any State Party which has established jurisdiction as mentioned in paragraph 2 shall notify the Secretary-General of the United Nations. If such

State Party subsequently rescinds that jurisdiction, it shall notify the Secretary-General of the United Nations.

4. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the crimes set out in article 9 in cases where the alleged offender is present in its territory and it does not extradite such person pursuant to article 15 to any of the States Parties which have established their jurisdiction in accordance with paragraph 1 or 2.

5. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

Article 11

Prevention of crimes against United Nations and associated personnel

States Parties shall cooperate in the prevention of the crimes set out in article 9, particularly by:

(a) Taking all practicable measures to prevent preparations in their respective territories for the commission of those crimes within or outside their territories; and

(b) Exchanging information in accordance with their national law and coordinating the taking of administrative and other measures as appropriate to prevent the commission of those crimes.

Article 12

Communication of information

1. Under the conditions provided for in its national law, the State Party in whose territory a crime set out in article 9 has been committed shall, if it has reason to believe that an alleged offender has fled from its territory, communicate to the Secretary-General of the United Nations and, directly or through the Secretary-General, to the State or States concerned all the pertinent facts regarding the crime committed and all available information regarding the identity of the alleged offender.

2. Whenever a crime set out in article 9 has been committed, any State Party which has information concerning the victim and circumstances of the crime shall endeavour to transmit such information, under the conditions provided for in its national law, fully and promptly to the Secretary-General of the United Nations and the State or States concerned.

Article 13

Measures to ensure prosecution or extradition

1. Where the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take the appropriate measures under its national law to ensure that person's presence for the purpose of prosecution or extradition.

2. Measures taken in accordance with paragraph 1 shall be notified, in conformity with national law and without delay, to the Secretary-General of the United Nations and, either directly or through the Secretary-General, to:

(a) The State where the crime was committed;

(b) The State or States of which the alleged offender is a national or, if such person is a stateless person, in whose territory that person has his or her habitual residence;

(c) The State or States of which the victim is a national; and

(d) Other interested States.

Article 14

Prosecution of alleged offenders

The State Party in whose territory the alleged offender is present shall, if it does not extradite that person, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the law of that State. Those authorities shall take their decision in the same manner as in the case of an ordinary offence of a grave nature under the law of that State.

Article 15

Extradition of alleged offenders

1. To the extent that the crimes set out in article 9 are not extraditable offences in any extradition treaty existing between States Parties, they shall be deemed to be included as such therein. States Parties undertake to include those crimes as extraditable offences in every extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of those crimes. Extradition shall be subject to the conditions provided in the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those crimes as extraditable offences between themselves subject to the conditions provided in the law of the requested State.

4. Each of those crimes shall be treated, for the purposes of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States Parties which have established their jurisdiction in accordance with paragraph 1 or 2 of article 10.

Article 16

Mutual assistance in criminal matters

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the crimes set out in article 9, including assistance in obtaining evidence at their disposal necessary for the proceedings. The law of the requested State shall apply in all cases.

2. The provisions of paragraph 1 shall not affect obligations concerning mutual assistance embodied in any other treaty.

Article 17

Fair treatment

1. Any person regarding whom investigations or proceedings are being carried out in connection with any of the crimes set out in article 9 shall be guaranteed fair treatment, a fair trial and full protection of his or her rights at all stages of the investigations or proceedings.

2. Any alleged offender shall be entitled:

(a) To communicate without delay with the nearest appropriate representative of the State or States of which such person is a national or which is otherwise entitled to protect that person's rights or, if such person is a stateless person, of the State which, at that person's request, is willing to protect that person's rights; and

(b) To be visited by a representative of that State or those States.

Article 18

Notification of outcome of proceedings

The State Party where an alleged offender is prosecuted shall communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to other States Parties.

Article 19

Dissemination

The States Parties undertake to disseminate this Convention as widely as possible and, in particular, to include the study thereof, as well as relevant provisions of international humanitarian law, in their programmes of military instruction.

Article 20

Savings clauses

Nothing in this Convention shall affect:

(a) The applicability of international humanitarian law and universally recognized standards of human rights as contained in international instruments in relation to the protection of United Nations operations and United Nations and associated personnel or the responsibility of such personnel to respect such law and standards;

(b) The rights and obligations of States, consistent with the Charter of the United Nations, regarding the consent to entry of persons into their territories;

(c) The obligation of United Nations and associated personnel to act in accordance with the terms of the mandate of a United Nations operation;

(d) The right of States which voluntarily contribute personnel to a United Nations operation to withdraw their personnel from participation in such operation; or

(e) The entitlement to appropriate compensation payable in the event of death, disability, injury or illness attributable to peace-keeping service by persons voluntarily contributed by States to United Nations operations.

Article 21

Right of self-defence

Nothing in this Convention shall be construed so as to derogate from the right to act in self-defence.

Article 22

Dispute settlement

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by application in conformity with the Statute of the Court.

2. Each State Party may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by all or part of paragraph 1. The other States Parties shall not be bound by paragraph 1 or the relevant part thereof with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 23

Review meetings

At the request of one or more States Parties, and if approved by a majority of States Parties, the Secretary-General of the United Nations shall convene a meeting of the States Parties to review the implementation of the Convention, and any problems encountered with regard to its application.

Article 24

Signature

This Convention shall be open for signature by all States, until 31 December 1995, at United Nations Headquarters in New York.

Article 25

Ratification, acceptance or approval

This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

Article 26

Accession

This Convention shall be open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 27

Entry into force

1. This Convention shall enter into force thirty days after twenty-two instruments of ratification, acceptance, approval or accession have been deposited with the Secretary-General of the United Nations.

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 28

Denunciation

1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

Article 29

Authentic texts

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

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MEASURES TO ELIMINATE INTERNATIONAL TERRORISM

Report of the Sixth Committee

Rapporteur: Mrs. Silvia A. FERNANDEZ de GURMENDI (Argentina)

I. INTRODUCTION

1. The item entitled "Measures to eliminate international terrorism" was included in the provisional agenda of the forty-ninth session of the General Assembly in accordance with paragraph (b) of General Assembly decision 48/411 of 9 December 1993.

2. At its 3rd plenary meeting, on 23 September 1994, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. In connection with the item, the Sixth Committee had before it the report of the Secretary-General (A/49/257 and Add.1-3), which was introduced by the Under-Secretary-General for Legal Affairs, the Legal Counsel, at the 12th meeting, on 14 October 1994.

4. The following communications were also circulated under the item:

(a) Letters dated 6 and 13 April, 26 July, 10, 13 and 19 October 1994 from the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/49/118-S/1994/401, A/49/123-S/1994/427, A/49/279, A/49/498-S/1994/1150, A/49/510-S/1994/1158 and A/49/552-S/1994/1186);

(b) Letter dated 6 April 1994 from the Permanent Representative of India to the United Nations addressed to the Secretary-General (A/49/119);

(c) Letter dated 22 June 1994 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General (A/49/188);

(d) Letter dated 8 July 1994 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General (A/49/224);

(e) Letter dated 12 July 1994 from the Permanent Representative of Italy to the United Nations addressed to the Secretary-General (A/49/228-S/1994/827);

(f) Letters dated 27 July and 8 August 1994 from the Permanent Representative of Argentina to the United Nations addressed to the Secretary-General (A/49/284-S/1994/890 and A/49/303-S/1994/951);

(g) Letter dated 25 June 1994 from the Minister for Foreign Affairs of Egypt to the Secretary-General, transmitting the documents of the Eleventh Ministerial Conference of the Movement of Non-Aligned Countries, held at Cairo from 31 May to 3 June 1994 (A/49/287-S/1994/894 and Corr.1);

(h) Letter dated 1 August 1994 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General (A/49/293);

(i) Letter dated 5 August 1994 from the representatives of France, the United Kingdom of Great Britain and Northern Ireland and the United States of America to the United Nations addressed to the Secretary-General (A/49/299-S/1994/938);

(j) Letter dated 15 September 1994 from the Permanent Representative of Brazil to the United Nations addressed to the Secretary-General (A/49/422-S/1994/1086);

(k) Letter dated 17 October 1994 from the Permanent Representative of the Sudan to the United Nations addressed to the Secretary-General (A/49/528);

(l) Letter dated 17 October 1994 from the Permanent Representative of Indonesia to the United Nations addressed to the Secretary-General (A/49/532-S/1994/1179);

(m) Letter dated 17 October 1994 from the Permanent Observer of Palestine to the United Nations addressed to the Secretary-General (A/49/535).

5. At its 12th meeting, on 19 October, the Committee decided that the Rapporteur would chair informal consultations for the elaboration of a draft declaration on the item.

6. The Committee considered the item at its 12th to 15th and 39th meetings, on 14 and from 19 to 21 October and on 23 November 1994. The summary records of those meetings (A/C.6/49/SR.12-15 and 39) contain the views of the representatives who spoke during the consideration of the item.

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/49/L.17

7. At the 39th meeting, on 23 November, the Chairman of the Committee introduced a draft resolution proposed by him (A/C.6/49/L.17)

8. At the same meeting, the Committee adopted draft resolution A/C.6/49/L.17 without a vote (see para. 10).

9. The representative of Sweden made a statement in explanation of position before the adoption of the draft resolution. The representatives of Israel, Pakistan, the Islamic Republic of Iran, the Libyan Arab Jamahiriya, Peru and Venezuela made statements in explanation of position after the adoption of the draft resolution (see A/C.6/49/SR.39).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

10. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Measures to eliminate international terrorism

The General Assembly,

Recalling its resolution 46/51 of 9 December 1991 and its decision 48/411 of 9 December 1993,

Taking note of the report of the Secretary-General, 1/

Having considered in depth the question of measures to eliminate international terrorism,

Convinced that the adoption of the Declaration on Measures to Eliminate International Terrorism should contribute to the enhancement of the struggle against international terrorism,

1. Approves the Declaration on Measures to Eliminate International Terrorism, the text of which is annexed to the present resolution;

2. Invites the Secretary-General to inform all States, the Security Council, the International Court of Justice, and the relevant specialized agencies, organizations and organisms, of the adoption of the Declaration;

3. Urges that every effort should be made so that the Declaration becomes generally known and is observed and implemented in full;

4. Urges States, in accordance with the provisions of the Declaration, to take all appropriate measures at the national and international levels to eliminate terrorism;

5. Invites the Secretary-General to follow up closely the implementation of the present resolution and the Declaration, and to submit to it at its

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1/ A/49/257 and Add.1-3.

fiftieth session a report thereon, relating, in particular, to the modalities of implementation of paragraph 10 of the Declaration;

6. Decides to include in the provisional agenda of its fiftieth session the item entitled "Measures to eliminate international terrorism", in order to examine the report of the Secretary-General requested in paragraph 5 above, without prejudice to the annual or biennial consideration of the item.

ANNEX

Declaration on Measures to Eliminate International Terrorism

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, 2/ the Declaration on the Strengthening of International Security, 3/ the Definition of Aggression, 4/ the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations, 5/ the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights, 6/ the International Covenant on Economic, Social and Cultural Rights 7/ and the International Covenant on Civil and Political Rights, 7/

Deeply disturbed by the world-wide persistence of acts of international terrorism in all its forms and manifestations, including those in which States are directly or indirectly involved, which endanger or take innocent lives, have a deleterious effect on international relations and may jeopardize the security of States,

Deeply concerned by the increase, in many regions of the world, of acts of terrorism based on intolerance or extremism,

Concerned at the growing and dangerous links between terrorist groups, drug traffickers and their paramilitary gangs, which have resorted to all types of

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2/ Resolution 2625 (XXV), annex.

3/ Resolution 2734 (XXV).

4/ Resolution 3314 (XXIX), annex.

5/ Resolution 42/22, annex.

6/ Report of the World Conference on Human Rights, Vienna, 14-25 June 1993 (A/CONF.157/24 (Part I)), chap. III.

7/ See resolution 2200 A (XXI), annex.

violence, thus endangering the constitutional order of States and violating basic human rights,

Convinced of the desirability for closer coordination and cooperation among States in combating crimes closely connected with terrorism, including drug trafficking, unlawful arms trade, money laundering and smuggling of nuclear and other potentially deadly materials, and bearing in mind the role that could be played by both the United Nations and regional organizations in this respect,

Firmly determined to eliminate international terrorism in all its forms and manifestations,

Convinced that the suppression of acts of international terrorism, including those in which States are directly or indirectly involved, is an essential element for the maintenance of international peace and security,

Convinced also that those responsible for acts of international terrorism must be brought to justice,

Stressing the imperative need to further strengthen international cooperation between States in order to take and adopt practical and effective measures to prevent, combat and eliminate all forms of terrorism that affect the international community as a whole,

Conscious of the important role that might be played by the United Nations, the relevant specialized agencies and States in fostering widespread cooperation in preventing and combating international terrorism, inter alia, by increasing public awareness of the problem,

Recalling the existing international treaties relating to various aspects of the problem of international terrorism, inter alia, the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted in New York on 14 December 1973, the International Convention against the Taking of Hostages, adopted in New York on 17 December 1979, the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980, the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988, the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988, the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988, and the Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991,

Welcoming the conclusion of regional agreements and mutually agreed declarations to combat and eliminate terrorism in all its forms and manifestations,

Convinced of the desirability of keeping under review the scope of existing international legal provisions to combat terrorism in all its forms and manifestations, with the aim of ensuring a comprehensive legal framework for the prevention and elimination of terrorism,

Solemnly declares the following:

I

1. The States Members of the United Nations solemnly reaffirm their unequivocal condemnation of all acts, methods and practices of terrorism, as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States;

2. Acts, methods and practices of terrorism constitute a grave violation of the purposes and principles of the United Nations, which may pose a threat to international peace and security, jeopardize friendly relations among States, hinder international cooperation and aim at the destruction of human rights, fundamental freedoms and the democratic bases of society;

3. Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them;

II

4. States, guided by the purposes and principles of the Charter of the United Nations and other relevant rules of international law, must refrain from organizing, instigating, assisting or participating in terrorist acts, in territories of other States, or acquiescing in or encouraging activities within their territories directed towards the commission of such acts;

5. States must also fulfil their obligations under the Charter of the United Nations and other provisions of international law with respect to combating international terrorism and are urged to take effective and resolute measures in accordance with the relevant provisions of international law and international standards of human rights for the speedy and final elimination of international terrorism, in particular:

(a) To refrain from organizing, instigating, facilitating, financing, encouraging or tolerating terrorist activities and to take appropriate practical measures to ensure that their respective territories are not used for terrorist installations or training camps, or for the preparation or organization of terrorist acts intended to be committed against other States or their citizens;

(b) To ensure the apprehension and prosecution or extradition of perpetrators of terrorist acts, in accordance with the relevant provisions of their national law;

(c) To endeavour to conclude special agreements to that effect on a bilateral, regional and multilateral basis, and to prepare, to that effect, model agreements on cooperation;

(d) To cooperate with one another in exchanging relevant information concerning the prevention and combating of terrorism;

(e) To take promptly all steps necessary to implement the existing international conventions on this subject to which they are parties, including the harmonization of their domestic legislation with those conventions;

(f) To take appropriate measures, before granting asylum, for the purpose of ensuring that the asylum seeker has not engaged in terrorist activities and, after granting asylum, for the purpose of ensuring that the refugee status is not used in a manner contrary to the provisions set out in subparagraph (a) above;

6. In order to combat effectively the increase in, and the growing international character and effects of, acts of terrorism, States should enhance their cooperation in this area through, in particular, systematizing the exchange of information concerning the prevention and combating of terrorism, as well as by effective implementation of the relevant international conventions and conclusion of mutual judicial assistance and extradition agreements on a bilateral, regional and multilateral basis;

7. In this context, States are encouraged to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter;

8. Furthermore States that have not yet done so are urged to consider as a matter of priority becoming parties to the international conventions and protocols relating to various aspects of international terrorism referred to in the preamble to the present Declaration;

III

9. The United Nations, the relevant specialized agencies and intergovernmental organizations and other relevant bodies must make every effort with a view to promoting measures to combat and eliminate acts of terrorism and to strengthening their role in this field;

10. The Secretary-General should assist in the implementation of the present Declaration, by taking, within existing resources, the following practical measures to enhance international cooperation:

(a) A collection of data on the status and implementation of existing multilateral, regional and bilateral agreements relating to international terrorism, including information on incidents caused by international terrorism and criminal prosecutions and sentencing, based on information received from the depositaries of those agreements and from Member States;

(b) A compendium of national laws and regulations regarding the prevention and suppression of international terrorism in all its forms and manifestations, based on information received from Member States;

(c) An analytical review of existing international legal instruments relating to international terrorism, in order to assist States in identifying aspects of this matter that have not been covered by such instruments and could be addressed to develop further a comprehensive legal framework of conventions dealing with international terrorism;

(d) A review of existing possibilities within the United Nations system for assisting States in organizing workshops and training courses on combating crimes connected with international terrorism;

IV

11. All States are urged to promote and implement in good faith and effectively the provisions of the present Declaration in all its aspects;

12. Emphasis is placed on the need to pursue efforts aiming at eliminating definitively all acts of terrorism by the strengthening of international cooperation and progressive development of international law and its codification, as well as by enhancement of coordination and increase of the efficiency of the United Nations and the relevant specialized agencies, organizations and bodies.

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CONVENTION ON JURISDICTIONAL IMMUNITIES OF STATES AND THEIR PROPERTY

Report of the Sixth Committee

Rapporteur: Mrs. Silvia A. FERNANDEZ de GURMENDI (Argentina)

I. INTRODUCTION

1. The item entitled "Convention on jurisdictional immunities of States and their property" was included in the provisional agenda of the forty-ninth session of the General Assembly pursuant to Assembly decision 48/413 of 9 December 1993.

2. At its 3rd plenary meeting, on 23 September 1994, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. At its 2nd meeting, on 23 September, the Sixth Committee, in accordance with General Assembly decision 48/413, decided to convene informal consultations to continue consideration of the substantive issues regarding which the identification and attenuation of differences was desirable, in order to facilitate the successful conclusion of a convention through general agreement.

4. At its 3rd meeting, on 26 September, the Committee elected Mr. Carlos Calero-Rodrigues (Brazil) Chairman of the informal consultations.

5. The participants in the informal consultations had before them, in addition to chapter II of the report of the International Law Commission on the work of its forty-third session, 1/ the reports of the Working Group established by the General Assembly in its resolution 46/55 of 9 December 1991 and reconvened pursuant to Assembly decision 47/414 of 25 November 1993. 2/

6. The informal consultations were held at six meetings, from 27 September to 3 October 1994.

7. At the 7th meeting of the Committee, on 6 October, the Chairman of the informal consultations introduced a document containing conclusions he had drawn from the consultations (A/C.6/49/L.2).

8. The Sixth Committee considered the item, and the Chairman's conclusions, at its 32nd, 33rd, 37th, 38th, 40th and 41st meetings, on 11, 14, 17, 18, 25 and 29 November 1994. In accordance with General Assembly decision 48/413, the Committee considered, in the light of the progress thus far achieved and of the results of the consultations, the recommendation of the International Law Commission that an international conference of plenipotentiaries be convened to examine the articles of the jurisdictional immunities of States and their property and to conclude a convention on the subject. The summary records of the meetings contain the views of the representatives who spoke during the consideration of the item (A/C.6/49/SR.32, 33, 37, 38, 40 and 41).

II. CONSIDERATION OF PROPOSALS

9. At the 37th meeting, on 17 November, the representative of Brazil introduced a draft resolution entitled "Convention on jurisdictional immunities of States and their property" (A/C.6/49/L.14), sponsored by Algeria, Bolivia, Brazil, the Dominican Republic, Ecuador, France, Nicaragua, Peru, Uruguay and Venezuela, later joined by the Russian Federation, which read:

> "The General Assembly,
>
> "Having received from the International Law Commission a set of draft articles on jurisdictional immunities of States and their property 3/ adopted by the Commission at its forty-third session,

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1/ Official Records of the General Assembly, Forty-sixth Session, Supplement No. 10 (A/46/10).

2/ A/C.6/47/L.10 and A/C.6/48/L.4 and Corr.2.

3/ Official Records of the General Assembly, Forty-sixth Session, Supplement No. 10 (A/46/10), chap. II, sect. D.

"Recalling that the International Law Commission recommended that an international conference of plenipotentiaries be convened to examine the draft articles and to conclude a convention on the subject, 4/

"Having considered the draft articles at its forty-sixth to forty-ninth sessions, including in a working group and in consultations aimed at considering the issues of substance arising out of the draft articles, with the purpose of identifying and attenuating the differences of views concerning such issues in order to facilitate the conclusion of a convention through general agreement,

"Having considered the reports of the working groups established at its forty-seventh 5/ and forty-eighth 6/ sessions and of the consultations held at its forty-ninth session, 7/

"1. Decides to accept the recommendation of the International Law Commission and to convene an international conference of plenipotentiaries to consider the articles on jurisdictional immunities of States and their property and to conclude a convention on the subject;

"2. Also decides that the date and place of the conference shall be determined at the fifty-first session of the General Assembly, due consideration being given to the need for adequate preparatory work, including further consultations on matters of substance aimed at ensuring the widest possible agreement at the conference;

"3. Decides to include in the provisional agenda of its fifty-first session an item entitled 'United Nations conference on jurisdictional immunities of States and their property'".

10. At the 38th meeting, on 18 November, the representative of the United Kingdom of Great Britain and Northern Ireland introduced a draft resolution entitled "Convention on jurisdictional immunities of States and their property" (A/C.6/49/L.20), sponsored by Australia, Canada, Germany, the Netherlands, the United Kingdom of Great Britain and Northern Ireland and the United States of America, later joined by Austria, which read:

"The General Assembly,

"Having received from the International Law Commission a set of draft articles on jurisdictional immunities of States and their property adopted by the Commission at its forty-third session, 3/

4/ Ibid., para. 25.

5/ A/C.6/47/L.10.

6/ A/C.6/48/L.4 and Corr.2.

7/ A/C.6/49/L.2.

"Recalling that the International Law Commission recommended that an international conference of plenipotentiaries be convened to examine the draft articles and to conclude a convention on the subject, 4/

"Having considered the draft articles at its forty-sixth to forty-ninth sessions, including in a Working Group and in consultations aimed at considering the issues of substance arising out of the draft articles, with the purpose of identifying and attenuating the differences of view concerning such issues in order to facilitate the conclusion of a convention through general agreement,

"Having also considered the reports of the Working Group established at its forty-seventh 5/ and forty-eighth 6/ sessions and of the consultations held at its forty-ninth session, 7/

"Noting that there remain issues of substance arising out of the draft articles on which a sufficient measure of agreement has not yet been achieved,

"1. Considers that the successful conclusion of a convention through general agreement would be a valuable contribution to the codification and progressive development of international law;

"2. Invites States to submit to the Secretary-General their comments on the conclusions of the Chairman of the informal consultations held pursuant to General Assembly decision 48/413 of 9 December 1993, as well as the reports of the Working Group established under Assembly resolution 46/55 of 9 December 1991 and decision 47/414 of 25 November 1992; 5/, 6/

"3. Decides to resume consideration at its fifty-third session of the issues of substance, in the light of the reports mentioned above and the comments submitted by States thereon, and to give full consideration to the recommendation of the International Law Commission to convene an international conference of plenipotentiaries to consider the draft articles and to conclude a convention on this subject;

"4. Also decides to include in the provisional agenda of its fifty-third session the item entitled 'Convention on jurisdictional immunities of States and their property'."

11. At its 40th meeting, on 25 November, the Committee had before it a draft resolution submitted by its Chairman (A/C.6/49/L.25).

12. At the same meeting, draft resolutions A/C.6/49/L.14 and A/C.6/49/L.20 were withdrawn in favour of the draft resolution submitted by the Chairman.

13. At its 41st meeting, on 29 November, the Committee adopted draft resolution A/C.6/49/L.25 without a vote (see para. 14).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

14. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Convention on jurisdictional immunities of States and their property

The General Assembly,

Having received from the International Law Commission the set of articles on jurisdictional immunities of States and their property 8/ adopted by the Commission at its forty-third session,

Recalling that the International Law Commission recommended that an international conference of plenipotentiaries be convened to examine the articles and to conclude a convention on the subject, 9/

Having considered the articles at its forty-sixth to forty-ninth sessions, including in a working group and in consultations aimed at considering the issues of substance arising out of the draft articles, with the purpose of identifying and attenuating the differences of views concerning such issues in order to facilitate the conclusion of a convention through general agreement,

Having considered also the reports of the Working Group established at its forty-seventh session 10/ and forty-eighth session 11/ and of the consultations held at its forty-ninth session, 12/

1. Accepts the recommendation of the International Law Commission that an international conference of plenipotentiaries be convened to consider the articles on jurisdictional immunities of States and their property and to conclude a convention on the subject;

2. Invites States to submit to the Secretary-General their comments on the conclusions of the Chairman of the informal consultations held pursuant to General Assembly decision 48/413 of 9 December 1993, and on the reports of the Working Group established under General Assembly resolution 46/55 of 9 December 1991 and decision 47/414 of 25 November 1992;

3. Decides to resume consideration at its fifty-second session of the issues of substance, in the light of the reports mentioned above and the

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8/ Official Records of the General Assembly, Forty-sixth Session, Supplement No. 10 (A/46/10), chap. II, sect. D.

9/ Ibid., sect. B, para. 25.

10/ A/C.6/47/L.10.

11/ A/C.6/48/L.4 and Corr.2.

12/ A/C.6/49/L.2.

comments submitted by States thereon, and to determine, at its fifty-second or fifty-third session, the arrangements for the conference, including the date and place, due consideration being given to ensuring the widest possible agreement at the conference;

4. Also decides to include in the provisional agenda of its fifty-second session the item entitled "Convention on jurisdictional immunities of States and their property".

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REQUEST FOR AN ADVISORY OPINION FROM THE INTERNATIONAL COURT OF JUSTICE

Report of the Sixth Committee

Rapporteur: Mrs. Silvia A. FERNANDEZ de GURMENDI (Argentina)

1. The item entitled "Request for an advisory opinion from the International Court of Justice" was included in the provisional agenda of the forty-ninth session of the General Assembly pursuant to Assembly decision 48/414 of 9 December 1993.

2. At its 3rd plenary meeting, on 23 September 1994, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. In connection with the item, the Sixth Committee had before it a letter dated 25 June 1994 from the Minister for Foreign Affairs of Egypt to the Secretary-General transmitting the texts of the documents adopted by the Eleventh Ministerial Conference of the Movement of Non-Aligned Countries, held at Cairo from 31 May to 3 June 1994 (A/49/287-S/1994/894 and Corr.1).

4. At its 39th meeting, on 23 November 1994, the Chairman of the Committee orally presented a draft decision on the item (A/C.6/49/SR.39).

5. At the same meeting, the Committee adopted, without a vote, the draft decision orally submitted by the Chairman (see para. 6 below).

RECOMMENDATION OF THE SIXTH COMMITTEE

6. The Sixth Committee recommends to the General Assembly the adoption of the following draft decision:

Request for an advisory opinion from the International Court of Justice

The General Assembly decides to give further consideration to the item entitled "Request for an advisory opinion from the International Court of Justice" at a future session of the General Assembly.

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REVIEW OF THE PROCEDURE PROVIDED FOR UNDER ARTICLE 11 OF THE STATUTE OF THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS

Report of the Sixth Committee

Rapporteur: Mrs. Silvia A. FERNÁNDEZ de GURMENDI (Argentina)

I. INTRODUCTION

1. The item entitled "Review of the procedure provided for under article 11 of the statute of the Administrative Tribunal of the United Nations" was included in the provisional agenda of the forty-ninth session of the General Assembly pursuant to Assembly decision 48/415 of 9 December 1993.

2. At its 3rd plenary meeting, on 23 September 1994, the General Assembly decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. In connection with the item, the Sixth Committee had before it a report of the Secretary-General containing the views submitted by Governments pursuant to decision 48/415 (A/49/258), as well as a report of the Secretary-General prepared pursuant to the same decision and containing a review of the procedure provided for under article 11 of the statute of the Administrative Tribunal of the United Nations (A/C.6/49/2).

4. The Sixth Committee considered the item at its 38th and 39th meetings, on 18 and 23 November 1994. The summary records of those meetings contain the views of the representatives who spoke during the Committee's consideration of the item (A/C.6/49/SR.38 and 39).

5. At the 38th meeting, on 18 November, the Deputy Legal Counsel and Director of the Office of the Legal Counsel introduced the report of the Secretary-General (A/C.6/49/2).

II. CONSIDERATION OF DRAFT DECISION A/C.6/49/L.21

6. At the 39th meeting, on 23 November, the representative of Ireland introduced a draft decision entitled "Review of the procedure provided for under article 11 of the statute of the Administrative Tribunal of the United Nations" (A/C.6/49/L.21), sponsored by Australia, Benin, France and Ireland.

7. At the same meeting, the Committee adopted draft decision A/C.6/49/L.21 without a vote (see para. 8).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft decision:

Review of the procedure provided for under article 11 of the statute of the Administrative Tribunal of the United Nations

The General Assembly, having taken note of the report of the Secretary-General, 1/ decides:

(a) To consider at its fiftieth session the deletion of article 11 of the statute of the Administrative Tribunal of the United Nations and any consequential amendments relating thereto, in the light of the progress made during its forty-ninth session on the reform of the internal system of justice in the United Nations Secretariat;

(b) To include in the provisional agenda of its fiftieth session the item entitled "Review of the procedure provided for under article 11 of the statute of the Administrative Tribunal of the United Nations".

1/ A/C.6/49/2.

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QUESTION OF CRITERIA FOR GRANTING OF OBSERVER STATUS IN THE GENERAL ASSEMBLY

Report of the Sixth Committee

Rapporteur: Mrs. Silvia A. FERNANDEZ de GURMENDI (Argentina)

I. INTRODUCTION

1. The item entitled "Question of criteria for granting of observer status in the General Assembly" was included in the agenda of the forty-ninth session of the General Assembly at the request of the United States of America (A/49/231).

2. At its 3rd plenary meeting, on 23 September 1994, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 7th, 10th, 13th and 40th meetings on 6, 12 and 19 October and 25 November 1994. The summary records of those meetings contain the views of representatives who spoke during the Committee's consideration of the item (A/C.6/49/SR.7, 10, 13 and 40).

4. At its 13th meeting, on 19 October, the Committee decided to establish an open-ended Working Group on the item and elected Mr. Suresh Chaturvedi (India), Vice-Chairman of the Sixth Committee, as Chairman of the Working Group.

5. At the 40th meeting, on 25 November, the Chairman of the Working Group orally reported on the proceedings of the Working Group (see A/C.6/49/SR.40).

II. CONSIDERATION OF DRAFT DECISION A/C.6/49/L.16

6. At the 40th meeting, on 25 November, the Chairman of the Working Group introduced a draft decision on the item (A/C.6/49/L.16).

7. At the same meeting, the Committee adopted draft decision A/C.6/49/L.16 without a vote (see para. 8 below).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft decision:

Question of criteria for the granting of observer status in the General Assembly

The General Assembly, taking note of the oral report presented to the Sixth Committee on 25 November 1994 by the Chairman of the Working Group on the question of criteria for the granting of observer status in the General Assembly, 1/ decides that the granting of observer status in the General Assembly should in the future be confined to States and to those intergovernmental organizations whose activities cover matters of interest to the Assembly.

1/ See A/C.6/49/SR.40.